

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

HONORABLE NANCY G. EDMUNDS

No. 18-CR-20351

D-4 VASAN DESHIKACHAR, DR.,

Defendant.

PLEA HEARING

Detroit, Michigan - Tuesday, March 12, 2019

Appearances:

Brandy McMillion
United States Attorney's Office
211 W. Fort Street, Suite 2001
Detroit, MI 48226
313-226-9756
On behalf of Plaintiff

Allison L. Kriger
La Rene & Kriger, P.L.C.
645 Griswold, Suite 171
Detroit, MI 48221
313-967-0100
On behalf of D-4

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Suzanne Jacques, Official Court Reporter
email: jacques@transcriptorders.com

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Court Exhibits

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1 Detroit, Michigan
2 Tuesday, March 12, 2019
3 11:17 a.m.

4 - - -

5 THE CLERK: Case number 18-20351, defendant
6 4, United States of America vs. Vasan Deshikachar --
7 Deshikachar.

8 THE COURT: Deshikachar.

9 MS. McMILLION: Good morning, Your Honor, Brandy
10 McMillion on behalf of the United States.

11 MS. KRIGER: Good morning, Your Honor, Allison
12 Kriger on behalf of Dr. Deshikachar.

13 THE COURT: Do I understand correctly that the
14 purpose of Dr. Deshikachar's appearance this morning is that
15 he wishes to enter a plea of guilty in this matter?

16 MS. KRIGER: That's correct, Your Honor.

17 THE COURT: I have the indictment, the
18 acknowledgment, the Rule 11 Plea Agreement, which I will
19 mark as Exhibits 1, 2 and 3, respectively, and enter as
20 exhibits on the record.

21 (Court Exhibits 1, 2 and 3 were admitted.)

22 THE COURT: Ms. McMillion, would you please
23 inform the defendant of the charge to which he's entering a
24 plea of guilty by reading or summarizing the pertinent parts
25 of the indictment?

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1 MS. McMILLION: Yes, Your Honor.

2 The defendant, Dr. Deshikachar, is entering a
3 plea of guilty to Count 1 of the indictment, which charges
4 him with conspiracy to possess with intent to distribute and
5 to distribute controlled substances, in violation of 21
6 U.S.C. Section 841(a)(1) and Section 846. This conduct
7 occurred in January of 2015 through March of 2018.

8 The defendant, a doctor, issued prescriptions
9 outside of the course of professional medical practice to
10 co-conspirators who would fill those prescriptions at
11 co-conspirator defendants' pharmacies.

12 He is charged with and entering a plea today,
13 Your Honor, to schedule II controlled substances Oxycodone
14 HCl and Oxymorphone HCl, and the amount is 40,228 dosage
15 units of those schedule 2 controlled substances.

16 THE COURT: Thank you.

17 Do you want to step forward, Ms. Kriger, with
18 the defendant, please?

19 Dr. Deshikachar, I'm going to ask you some
20 questions, so I need to swear you in. Raise your right
21 hand, please.

22 Do you solemnly swear that the testimony you're
23 about to give in the matter here pending shall be the truth,
24 the whole truth and nothing but the truth, so help you God?

25 THE DEFENDANT: I do, Your Honor.

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1 THE COURT: Tell me your name, please.

2 THE DEFENDANT: Vasan Deshikachar.

3 THE COURT: I intend to question you regarding
4 the facts of the crime alleged in Count 1 of the indictment.
5 Do you understand that you have a constitutional right to
6 remain silent and not incriminate yourself by answering my
7 questions?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do I understand correctly that you
10 wish to waive that right for the purpose of pleading guilty
11 to the charge in Count 1?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Do you understand that you are now
14 under oath, and if you answer any questions falsely, your
15 answers may later be used against you in another prosecution
16 for perjury or making false statements?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: How old are you?

19 THE DEFENDANT: I am 52 years old.

20 THE COURT: How far did you go in school?

21 THE DEFENDANT: I went to medical school and
22 then post graduation.

23 THE COURT: So you're a medical doctor? You got
24 your medical degree in what country?

25 THE DEFENDANT: I got my medical degree in

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1 India, and I did my residency, post graduation here in
2 Michigan.

3 THE COURT: So you've been in Michigan a long
4 time?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: And clearly have no problem with the
7 English language, correct?

8 THE DEFENDANT: No problem?

9 THE COURT: With the English language.

10 THE DEFENDANT: No, I don't, Your Honor.

11 THE COURT: Have you ever been treated for any
12 mental illness or addiction to alcohol or narcotic drugs of
13 any kind?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: Are you presently under the
16 influence of any drugs, medication or alcohol?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: It does appear to me that
19 Dr. Deshikachar is competent to proceed in this matter. Do
20 you concur, Ms. Kriger?

21 MS. KRIGER: I concur.

22 THE COURT: Ms. McMillion?

23 MS. McMILLION: Yes, Your Honor.

24 THE COURT: Dr. Deshikachar, do you understand
25 that you have the right to have an attorney represent you

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1 during all stages of the proceedings, and the Court will
2 appoint an attorney for you if you cannot afford an attorney
3 of your own choice?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: You have your attorney, Ms. Kriger,
6 beside you in court today. Have you discussed this matter
7 with her?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And are you satisfied with her
10 advice and with the legal services she's performed on your
11 behalf?

12 THE DEFENDANT: Very much, Your Honor.

13 THE COURT: Do you understand that you have the
14 right to plead not guilty to every charge filed against you?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Do you understand that if you were
17 to plead not guilty and go to trial that you would be
18 protected by a number of rights set forth in the
19 Constitution of the United States?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: I'm going to go over those rights
22 with you, and when I'm through I'm going to ask you if you
23 understand the constitutional rights you have and if you're
24 sure you want to waive them in order to plead guilty here
25 this morning, okay?

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1 THE DEFENDANT: Okay, Your Honor.

2 THE COURT: You have the right to plead not
3 guilty. You have right to a speedy and public trial by
4 jury. You have the right to be presumed innocent unless and
5 until the government has proved you guilty beyond a
6 reasonable doubt by the unanimous agreement of all 12
7 members of the jury.

8 Because you are presumed innocent, you have no
9 obligation to present any testimony, evidence, or witnesses
10 on your own behalf. It's always up to the government to
11 prove beyond a reasonable doubt that you are guilty. You
12 have no responsibility to prove that you are innocent or not
13 guilty.

14 You have the right to see and hear all witnesses
15 called to testify against you and the right to cross examine
16 them. You have the right to have the Court order any
17 witnesses you have for your defense to appear at the trial
18 at the expense of the government. You have the right to
19 take the witness stand and testify, or not, as you choose,
20 and you cannot be required to testify if you do not wish to
21 do so. If you choose not to testify, your silence may not
22 be used against you in any way.

23 Do you understand those rights?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And is it your desire to waive them

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1 in order to plead guilty?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you understand that a plea of
4 guilty is the same on your criminal record as if you had
5 been found guilty after a full trial on this count?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you understand that the offense
8 to which you are pleading guilty is a felony?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Because you will have a felony
11 conviction on your record, not only will you be subject to
12 our criminal laws, but your civil rights will be affected,
13 as well. Are you a citizen of the United States?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you understand that while you are
16 in custody, you will not be permitted to vote?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And do you understand that even
19 after you are released from custody, there are many
20 jurisdictions in which you still would not be able to vote,
21 serve on a jury or hold public office?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Are you also aware that once you
24 have a felony conviction on your record, you are prohibited
25 for the rest of your life from owning a gun or firearm of

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1 any kind?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And are you aware that to be a felon
4 in possession of a firearm is a separate criminal offense
5 for which you can be sentenced to significant additional
6 time in custody?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Because you are a United States
9 citizen and this offense does not relate to obtaining your
10 citizenship, I don't think there are any immigration
11 consequences, but are you aware of any, Ms. McMillion?

12 MS. McMILLION: No, Your Honor, I don't believe
13 there are any.

14 THE COURT: All right.

15 Has it been explained to you that under the
16 statute that covers the offense to which you are pleading
17 guilty, the maximum penalties are 20 years in custody, a
18 million dollar fine and at least three years of supervised
19 release?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Have you talked over with Ms. Kriger
22 the program called supervised release? Do you know what
23 that is?

24 THE DEFENDANT: We haven't specifically gone
25 over the details, but I know, I do know what supervised

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1 release is.

2 THE COURT: Okay. You know that after you are
3 released from custody you are still under the supervision of
4 the court and the probation department, and you must abide
5 by terms established by the court?

6 THE DEFENDANT: Yes, okay, Your Honor.

7 THE COURT: And that if you violate the terms of
8 your supervised release, you can be put back in custody for
9 a violation.

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Are you on probation or parole in
12 any other matter right now?

13 THE DEFENDANT: Not that I'm aware of.

14 THE COURT: No?

15 MS. KRIGER: No, he is not.

16 THE DEFENDANT: No.

17 THE COURT: And are you aware that parole has
18 been abolished in the federal system and that you will not
19 be released early on parole from the sentence that I impose?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Have you received a copy of the
22 indictment pending against you?

23 THE DEFENDANT: Yes.

24 THE COURT: Have you fully discussed the charges
25 with Ms. Kriger?

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1 THE DEFENDANT: Yes.

2 THE COURT: I'm now going to explain to you the
3 essential elements of the offense, that is, what the
4 government would be required to prove at trial. I do this
5 to make certain you understand what the government would be
6 required to prove, and that you believe the government could
7 prove each element of the crimes charged beyond a reasonable
8 doubt, because in a minute or two I'm going to ask you what
9 you did that makes you believe you're guilty of this
10 offense, and if you don't think the government can prove
11 each element beyond a reasonable doubt, I don't want you to
12 make an incriminating statement in response to my question,
13 okay?

14 THE DEFENDANT: Okay, Your Honor.

15 THE COURT: You are charged in Count 1 with
16 conspiracy to possess with intent to distribute and to
17 distribute controlled substances. So because this is a
18 conspiracy charge, the first element of what the government
19 has to prove is an agreement between you and at least one
20 other person. It doesn't have to be a formal agreement, it
21 certainly doesn't have to be in writing or use any specific
22 words, but what the government must prove is that you had a
23 shared understanding or goal with another person to achieve
24 a certain criminal end. In this case, the criminal end
25 alleged by the government is the possession and the

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1 possession with intent to distribute controlled substances,
2 and the distribution of controlled substances, that you
3 agreed with somebody else to ultimately distribute
4 controlled substances. That's the conspiracy part of it.

5 And then the second part is that you knowingly
6 and voluntarily joined the conspiracy; that is, you didn't
7 just happen to be in the room when a couple of people were
8 talking about this. You knew about it, and you
9 intentionally joined in the conspiracy, some part of it.

10 Third, the government must prove that the
11 controlled substances involved in the conspiracy included
12 but were not limited to the schedule II controlled
13 substances Oxycodone HCl and Oxymorphone HCl.

14 The government must also move that this happened
15 on or about the dates set forth in the indictment, which
16 were sometime between a time in 2015 through I believe March
17 of 2018 was the end date, and that some aspect of it
18 occurred here in the Eastern District of Michigan.

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Do you understand the elements?

21 THE DEFENDANT: Yes.

22 THE COURT: And how do you plead -- oh, I'm
23 sorry. They also have to prove -- it's not out here, but I
24 know they have to prove that the intent, the goal was the
25 possession with the intent to distribute, that is, the

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1 intent to pass it along to another person. Distribution
2 doesn't require a sale, it just means the transfer from one
3 person to another. So they have to prove that you didn't
4 really intend to take all of that Oxycodone and Oxymorphone
5 yourself.

6 THE DEFENDANT: Yes.

7 THE COURT: You intended it to be spread around
8 either by sale, or simply transfer to another person.

9 So you possessed it with intent to transfer it,
10 and that you in fact did transfer it or participate in some
11 aspect of the transfer from one person to another.

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Okay. So how do you -- how do you
14 plead to the charge of conspiracy to possess with intent to
15 distribute and to distribute controlled substances?

16 THE DEFENDANT: How do I --

17 THE COURT: How do you plead?

18 THE DEFENDANT: I plead guilty, Your Honor.

19 THE COURT: Thank you. And are you now pleading
20 guilty to the charge of conspiracy because you believe you
21 are guilty of that offense?

22 THE DEFENDANT: I am pleading to the count of
23 conspiracy because I'm guilty.

24 THE COURT: You believe you are guilty?

25 THE DEFENDANT: I believe I'm guilty.

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1 THE COURT: Now, your attorney, Ms. Kriger, and
2 the attorney for the government, Ms. McMillion, have given
3 me a Rule 11 Plea Agreement which we've entered into the
4 record as exhibit 3. Did you sign that agreement?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: And is that agreement the basis on
7 which you're pleading guilty here today?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Ms. McMillion, would you state for
10 the record the terms of the plea agreement?

11 MS. McMILLION: Yes, Your Honor.

12 As previously outlined by the Court, the count
13 of conviction to which the defendant is pleading guilty is
14 Count 1 of the indictment, charging conspiracy to possess
15 with the intent to distribute and to distribute controlled
16 substances, in violation of 21 U.S.C. 841(a)(1) and 846.

17 The elements of the offense have been outlined
18 by the Court to which defendant has agreed. Those are set
19 forth on pages 2 through 3.

20 Turning to page 6, Your Honor, there are no
21 sentencing guidelines disputes between the parties. The
22 defendant's guideline range is 87 to 108 months, as set
23 forth on the attached worksheets to the plea agreement.
24 That is based on criminal history category of 27 -- or I'm
25 sorry, base offense level of 27, criminal history category

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1 of I.

2 The Rule 11 Plea Agreement is a C plea, so the
3 government makes a non binding recommendation that the
4 sentence of imprisonment be no more than the mid point of
5 the sentencing guideline range.

6 There is a term of supervised release to follow,
7 and in this case, it is at least three years. The defendant
8 will pay a special assessment of \$100 at the time of
9 sentencing. There is no agreement as to fines, and
10 restitution is not applicable in this case.

11 Forfeiture, there is forfeiture in this case,
12 Your Honor, as set forth in section F on pages 8 through 10.
13 The defendant has agreed to forfeit various crypto
14 currencies and cash that has been seized as proceeds of the
15 criminal conduct. In addition to that, the defendant has
16 agreed to the entry of a personal forfeiture money judgment
17 in favor of the United States in the amount of \$1.5 million.

18 As this is a C plea, the parties have agreed
19 that the recommendations in paragraph 3 are not binding on
20 the Court.

21 THE COURT: It's a B plea.

22 MS. McMILLION: B plea, I'm sorry.

23 THE COURT: I was going to ask you about that
24 because you said C earlier.

25 MS. McMILLION: B plea. They're non binding on

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1 the Court. And the defendant has no right to withdraw his
2 guilty plea if the Court decides not to follow the
3 agreement.

4 The defendant's appeal waiver is outlined in
5 Section 6 on page 13, and the defendant waives the right to
6 appeal his conviction on any grounds if the sentence of
7 imprisonment does not exceed 108 months. The government
8 also waives the right to appeal if the sentence of
9 imprisonment is at least 87 months. This waiver does not
10 bar the filing of any claim of ineffective assistance of
11 counsel.

12 The Court has outlined for the defendant the
13 collateral consequences of conviction with respect to right
14 to carry a firearm, serve on a jury, ability to hold certain
15 offices, and to vote. Those are outlined on page 14,
16 section 8, as well.

17 If the Court is to accept the defendant's plea,
18 the government will dismiss all the remaining charges
19 against the defendant, and that sets forth the material
20 aspects of the Rule 11, Your Honor.

21 THE COURT: Thank you, Ms. McMillion.

22 Anything to add to that?

23 MS. KRIGER: No thank you, Your Honor.

24 THE COURT: Dr. Deshikachar, do you understand
25 and agree with the terms of the plea agreement stated by the

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1 government?

2 THE DEFENDANT: I understand, Your Honor.

3 THE COURT: And agree?

4 THE DEFENDANT: And agree, yes.

5 THE COURT: Has anyone made any other or
6 different promise or assurance to you of any kind to try to
7 get you to plead guilty?

8 THE DEFENDANT: No, Your Honor.

9 THE COURT: Has anyone told you that I would be
10 easier on you, or give you a more lenient sentence if you
11 would plead guilty?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: Has anyone tried to force you to
14 plead guilty by any mistreatment, or pressure, or threats of
15 any kind?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Are you therefore pleading guilty
18 freely and voluntarily because, in fact, you are guilty and
19 it is your choice to plead guilty?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Please tell me in your own words
22 what you did that makes you believe you're guilty of this
23 offense.

24 THE DEFENDANT: In January of 2015 -- in or
25 around January of 2015, I made an agreement with Niesheia

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1 Tibu in which she would recruit some patients if they
2 provided me with names of real persons and date of birth,
3 and without conducting a thorough examination, or do just a
4 cursory examination, I was paid to write the persons
5 controlled substances prescriptions, knowing that I was not
6 prescribing the medications legitimately or in good faith.
7 The controlled substances included Oxymorphone and
8 Oxycodone. The persons for whom I wrote prescriptions would
9 then fill the prescriptions at one of preselected pharmacies
10 in Detroit whom Tibu and I knew would dispense the medically
11 unnecessary medications.

12 The pharmacies were Global Health, Precare and
13 Friendz Pharmacy. The prescription would then be illegally
14 sold for cash on the street market. The arrangement
15 continued until January 7 of 2018 when I left the conspiracy
16 voluntarily.

17 Throughout the three years, approximately three
18 years I participated in the scheme, I was responsible for
19 issuing 40,258 unit doses of certain specified schedule II
20 controlled substances.

21 THE COURT: Satisfied?

22 MS. McMILLION: Yes, Your Honor.

23 MS. KRIGER: Satisfied, Your Honor.

24 THE COURT: Dr. Deshikachar, I've told you what
25 your rights are and the penalty that may be imposed. Do you

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1 still want me to accept your guilty plea?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Counsel, are you both satisfied the
4 Court has complied with Rule 11?

5 MS. McMILLION: Yes, Your Honor.

6 MS. KRIGER: Satisfied, Your Honor.

7 THE COURT: It is the finding of the Court in
8 the case of United States of America vs. Dr. Vasan
9 Deshikachar that the defendant is fully competent and
10 capable of entering an informed plea. The defendant's plea
11 of guilty is a knowing and voluntary plea supported by his
12 own statement of facts, which contains all of the essential
13 elements of the offense.

14 Defendant's plea is, therefore, accepted, and
15 defendant is now adjudged guilty of the offense charged in
16 Count 1 of the indictment. The Rule 11 agreement is taken
17 under advisement, the matter is referred to Probation for a
18 presentence report, and I am setting sentencing for June 24
19 at 10:30 in the morning.

20 MS. McMILLION: Your Honor, if I may, with
21 respect to the sentencing date, if we could possibly get a
22 sentencing date later, maybe even in July. We're scheduled
23 to start trial in this case as to one of the other
24 defendants on June 18.

25 THE COURT: Sure.

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1 MS. McMILLION: And if we can handle sentencing
2 separate from having to be in trial on the other defendant.

3 THE CLERK: Is July 22 a good date?

4 MS. KRIGER: It's a good date for me, as far as
5 I know.

6 MS. McMILLION: Yes, yes.

7 THE COURT: We'll do it at 10:00 a.m. that day.

8 MS. KRIGER: Okay.

9 MS. McMILLION: Thank you.

10 THE COURT: And I assume defendant may remain on
11 bond on the same terms and conditions?

12 MS. McMILLION: No objections from the
13 government, Your Honor.

14 THE COURT: All right. Thank you.

15 MS. KRIGER: Thank you, Your Honor.

16 THE DEFENDANT: Thank you, Your Honor.

17 (Proceedings concluded at 11:41 a.m.)
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C E R T I F I C A T I O N

I, Suzanne Jacques, Official Court Reporter for the United States District Court, Eastern District of Michigan, Southern Division, hereby certify that the foregoing is a correct transcript of the proceedings in the above-entitled cause on the date set forth.

s/Suzanne Jacques
Suzanne Jacques, RPR, RMR, CRR, FCRR
Official Court Reporter
Eastern District of Michigan

10/13/2019
Date

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